

## Internal Revenue Service

Department of the Treasury

Number: **200248025**  
Release Date: 11/29/2002  
Index Number: 911.11-03

Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply To:

CC:INTL:Br2-PLR-135412-02

Date:

TY:

### Legend

Taxpayer	=
Country A	=
Country B	=

Dear :

This is in response to a letter received in this office on July 1, 2002, in which a ruling is requested to permit Taxpayer to reelect the foreign earned income exclusion pursuant to section 911 of the Internal Revenue Code.

The ruling contained in this letter is based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for ruling, it is subject to verification on examination.

Taxpayer lived in Country A and elected to exclude his foreign earned income under section 911(a) of the Code for tax years 1995 and 1996. In November 1997, Taxpayer returned to the United States from Country A. Taxpayer did not think he would be leaving the United States to live in another country in the foreseeable future. Therefore, Taxpayer revoked his election to use the foreign earned income exclusion.

At the end of December 2000, Taxpayer moved to Country B. Taxpayer lived in the United States for a period of 3 years and 1 month before moving to Country B. Taxpayer has purchased a home in Country B and plans to live there for the foreseeable future. Taxpayer wants to reelect the foreign earned income exclusion pursuant to section 911 of the Code for taxable year 2001 and subsequent taxable years.

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Section 911 of the Code permits certain taxpayers to elect to exclude from gross income their foreign earned income and housing cost amounts. The election applies to the taxable year for which it is made and for all subsequent taxable years, unless revoked by the taxpayer. Treas. Reg. § 1.911-7(b)(1) prescribes a method by which a taxpayer may revoke an election to exclude foreign earned income, i.e., filing a statement revoking any previously made elections. It does not, however, purport to provide the exclusive method for revoking such an election. Section 911(e)(2) provides that once revoked, the election may not be made again by the taxpayer until the sixth taxable year after the year in which the revocation was made.

Treas. Reg. § 1.911-7(b)(2) provides that if an individual revokes an election under Treas. Reg. § 1.911-7(b)(1), and desires to reelect the same exclusion within the next five years, the individual must obtain permission by requesting a ruling. The Service may permit the taxpayer to reelect before the sixth year the foreign earned income exclusion after considering all of the facts and circumstances. Treas. Reg. § 1.911-7(b)(2) provides that relevant facts and circumstances may include a period of United States residence, a move from one foreign country to another foreign country with differing tax rates, a substantial change in tax laws of the foreign country of residence or physical presence, and a change of employer.

Taxpayer revoked the foreign earned income exclusion for taxable year 1997 and desires to reelect the exclusion for taxable year 2001, which is within five years of taxable year 1997. Hence, Taxpayer is requesting permission to reelect the foreign earned income exclusion. Taxpayer has represented that there was a period of United States residence and that Taxpayer revoked his election for that period. Taxpayer has also represented that he did not claim any foreign tax credits for his tax years 1995 through 2000.

Accordingly, based solely on the information and representations set forth above, it is held that Taxpayer may reelect the section 911 exclusion for 2001 and subsequent taxable years.

Except as expressly provided herein, no opinion is expressed as to whether Taxpayer otherwise satisfies the requirements of section 911 for excluding foreign earned income and housing cost amounts from gross income.

A copy of this letter must be attached to Taxpayer's U.S. income tax return for the year for which Taxpayer obtained the ruling.

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This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

Sincerely,

Phyllis E. Marcus  
Branch Chief, Branch 2  
Office of the Associate Chief Counsel  
(International)